

REMARKS/ARGUMENTS

Applicant requests that the application be amended as above described. Claims 1 to 5 have been cancelled, and new claims 6 to 10 introduced to clarify and better define the scope of the invention recited therein.

Specification

In the Office Action, the Examiner objected to the specification arrangement and content. In response, the Applicant has submitted a substitute specification in a more conventional arrangement, as suggested by the Examiner.

Applicant notes that paragraph numbers used herein refer to the paragraph numbers of the application, as filed.

Applicant has moved [Para. 6] to paragraph [0001] (Cross Reference to Related Applications). Applicant has moved [Para. 7] to paragraph [0002] (Field of Invention). Applicant has moved [Para. 8] to paragraph [0003] (Background of Invention). Applicant has moved [Para. 9] - [Para. 12] to paragraph [0004] - [0007] (Summary of Invention). Applicant has moved [Para. 13] - [Para. 16] to paragraph [0008] - [0011] (Brief Description of Drawings). Applicant has moved [Para. 1] - [Para. 5] to paragraph [0012] - [0016] (Detailed Description). The substitute specification includes an Abstract of the Invention. No new matter has been added.

Claim Objections

In the Office Action, the Examiner objected to claims 1 to 5 because they include reference numerals that are not enclosed in parenthesis. Applicant has cancelled the affected claims 1 to 5 (see above). Applicant therefore requests withdrawal of the Examiner's objection.

Claim Rejections

35 U.S.C. § 112

In the Office Action, the Examiner rejected claims 1-5 as failing to define the invention in the manner required by 35 U.S.C. § 112. Applicant has cancelled Claims 1 to 5, and added claims 6 to 10 to more clearly and distinctly define the present invention. No new matter has been introduced. Applicant therefore requests withdrawal of the Examiner's rejection under 35 U.S.C. § 112.

35 U.S.C. § 102

In the Office Action, the Examiner has rejected claims 4-5 as being anticipated by U.S. 6,337,766 (Fujino). Applicant has cancelled the affected claim 4 to 5 (see above). Therefore, withdrawal of the rejection is respectfully requested.

However, in any event, Applicant submits that Fujino is clearly directed to a vertically focusing microscope, with the body tube and the stage adapted for relative motion only in a vertical plane, with no teachings directed to a focusing in a horizontal plane. Referring to Fig. 6, referenced by the Examiner, a body tube 200 is vertically movable to provide focusing by a guide mechanism 300a/400a relative to a fixed stage 600a. Referring to Fig. 7, referenced by the Examiner, a stage 800 is vertically movable to provide focusing by a guide mechanism 800a/900a relative to a fixed body tube 200.

35 U.S.C. § 103

In the Office Action, the Examiner has rejected Claim 1 as being unpatentable over Welsh (U.S. 4,856,742) in view of Nomura et al. (U.S. 5,732,912). Applicant has cancelled the affected Claim 1. Therefore, withdrawal of the rejection is respectfully requested.

However, in any event, Applicant submits that Welsh is clearly directed at vertical movement/focusing, and does not provide teachings directed at horizontal movement/focusing. Referring to Fig. 1, a vertical support member 14 supports a support member 12 having a tube member 18 and side lock screw 24. The support neck 20 of the microscope M is received vertically within the tube member 18 and locked in place with the

side screw lock 24. The tube member 18 only allows vertical motion of the support neck 20 (and thus the microscope M), and does not teach nor suggest horizontal motion.

With regard to Nomura, the Applicant notes that a vertical sliding bar (11) allows vertical movement, a bushing (21) provides rotational movement, and a [ntd: confirm specifics of 41]

In the Office Action, the Examiner has rejected claim 2-3 as being unpatentable over Hool et al. (U.S. 6,770,244) in view of Schehr (U.S. 5,163,649). Applicant has cancelled claims 2-3 (see above). Therefore, withdrawal of the rejection is respectfully requested.

However, in any event, Applicant respectfully submits that Hool et. al teaches a sample tube (14) adapted to mate with a carousel (12) (see Fig. 5), both the sample tube (14) and the carousel (12) having an annular anti-rotation structure (20) and (42) respectively, as teeth pattern (22) and (44) respectively. Vertical constraint of the sample tube (14) is accomplished as the annular teeth pattern (22) of the sample tube (14) rest on the annular teeth pattern (44) of the carousel (12). The present invention provides holding of the sample containers through the use of a elastic member which circumscribes a plate, not taught by Hool et al. The invention as claimed, does not use an annular anti-rotation structure of Hool et al. The invention as claimed uses an elastic element which circumscribes the plate, not taught by Hool et al., to frictionally engage the sample container and hold it in position relative to the plate. No teeth or other annular anti-rotation structure is required on the sample container nor the plate.

With respect to Schehr, linear bearing (20) allows vertical movement along first arm (18) (see Fig. 5). A locking screw (58) engages a threaded aperture (56) within a collar (52) to selectively engage the first arm (18) to fix the vertical position. When the locking screw (58) is released, the linear bearing (and the pallet (28)) are completely unrestrained and must be held in place, and/or moved vertically upward or downward by the operator as desired, and once the pallet (28) and objects upon the pallet (28) are in the desired position, locked in place with the locking screw (58).

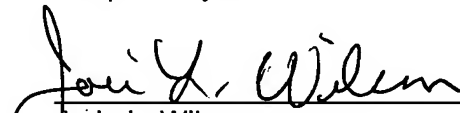
In the present invention, a vertical screw (111) extends through a vertical transverse bar (113) to engage a sliding vertical bushing (112), the sliding vertical bushing (112) associated with a test tube holding plate (114). The vertical screw (111) is rotatable by a vertical moving handle (110) to raise or lower the test tube holding plate (114). The present invention provides (depending on the pitch of the screw/bushing) a controlled movement of the plate while allowing the operator to continuously control the test tube holding plate (114). Unlike, Schehr, the pallet (28) is always under operator control and never vertically unrestrained.

Applicant submits that the application is now in condition for allowance, and favorable action to that end is respectfully requested.

A Petition for Reinstatement due to Unintentional Abandonment is enclosed.

Based on the above remarks, amendments to the claims and agreements reached with the Examiner, the Applicant respectfully submits that the present invention is patentably defined over the prior art of record such that allowance of all claims and passage of the application to issue is respectfully requested. If the Examiner should have any additional questions or concerns regarding this matter, he is cordially invited to contact the undersigned at the number provided below in order to further prosecution.

Respectfully submitted,


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